

REMARKS/ARGUMENTS

Claims 1, 4-6, 8-11, 14 and 16-26 are pending in the above application.

The Office Action dated November 5, 2008, has been received and carefully reviewed. In that Office Action, claims 1, 5, 6, 8-11 and 16-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mewhinney in view of Dezonno, and claims 4, 14 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Mewhinney in view of Dezonno and further in view of "the instant application." Each of these issues is addressed below, and reconsideration and allowance of the pending claims is respectfully requested in view of the following remarks.

REJECTIONS UNDER 35 U.S.C. 103(a)

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mewhinney in view of Dezonno. Claim 1 recites, inter alia, a call management system for interconnecting a customer who is using a communication device with one of a plurality of customer agents. The call management system includes means for segmenting a call into a plurality of phases, means for predicting a current phase of the call from the plurality of phases, and means for estimating time remaining on the call. The means for estimating time remaining comprises a means for classifying the call into one of a plurality of call classes and means for performing methods of automatic speech analysis upon the service call and evaluating the proportion of time the customer speaks relative to time the agent speaks.

Mewhinney does not show means for estimating the time remaining on a call from the proportion of time the customer speaks relative to the time the agent speaks as recited in claim 1. Dezonno shows that it is possible to measure the time a customer

speaks on a call. However, Dezonno is not directed to determining how much time is left on a call, and Dezonno does not suggest that the time a customer speaks can be used to determine the time remaining in a call. It is therefore not clear why one skilled in the art would think that using the time a customer speaks would provide "a better estimate of the time remaining in a call" as stated in the Office Action. The present disclosure indicates that this should be done, but nothing in the art or arguments of record provides such a reason. Furthermore, the actual wording of claim 1 recites that the time remaining in a call be determined, in part, based on "the proportion of time the customer speaks relative to the time the agent speaks," and this limitation is not addressed in the Office Action.

For the foregoing reasons, it is respectfully submitted that a proper reason for modifying Mewhinney has not been provided and that a prima facie case of obviousness has not been presented in connection with claim 1. At most, the combination of Mewhinney and Dezonno might suggest providing Mewhinney with the ability to measure the amount of time a customer speaks. However, the combination provides no further suggestion regarding what to do with this information. Claim 1 is submitted to be allowable over Mewhinney and Dezonno for at least this reason.

If the rejection of claim 1 is not withdrawn, it is respectfully requested that the examiner explain for the record 1) why one skilled in the art would believe a "better" estimate of time remaining in call could be obtained from the proportion of time the customer speaks relative to the time the agent speaks and 2) how exactly the examiner proposes to modify Mewhinney to obtain this better estimate in order to satisfy the requirements of MPEP 706.02(j)(C).

Claims 4-6 and 8-10 depend from claim 1 and are submitted to be allowable for at

least the same reasons as claim 1. Claim 9 further distinguishes over the art of record by reciting that the means for estimating further comprise means for modeling the flow from one phase of the plurality of phases of the call to another phase of the plurality of phases of the call. The Office Action no longer relies on the theory of inherency to find these limitations in Mewhinney, apparently because the requirements of MPEP 2112 cannot be satisfied. Instead, the rejection is now based on the assertion that these limitations can be found in Mewhinney or Dezonnon based on "a fair reading of Mewhinney and Dezonno."

It is not clear how finding missing limitations in a reference by giving that reference a "fair reading" is any different from stating that certain limitations are inherently present in a reference. If the rejection of claim 9 is maintained, it is respectfully requested that the examiner provide a legal basis for this "fair reading" theory of obviousness so that the grounds of the rejection can be understood. Furthermore, the rejection of claim 9 does not satisfy the requirements of MPEP 706.02(j) which requires that the examiner explain how the primary reference is to be modified in order to meet the limitations of the claims and to provide a reason for such modification. Claim 9 is submitted to further distinguish over the art of record for this reason.

Claim 11 recites a method of estimating the time remaining on a service call that includes, *inter alia*, evaluating the proportion of time the customer speaks relative to the time the agent speaks. Mewhinney does not disclose this act, and Dezonno in no manner suggests estimating time remaining on a service call by evaluating the proportion of time the customer speaks relative to the time the agent speaks. For this reason, and the reasons provided in connection with claim 1, claim 11 is submitted to be allowable over the art of record.

Claims 14 and 16-18 depend from claim 11 and are submitted to be allowable for at least the same reasons as claim 11. Claim 17 is submitted to further distinguish over the art of record for the reasons provided above in connection with claim 9.

Claim 19 recites an act of performing automated speech recognition on a conversation. This limitation is not mentioned in the rejection of claim 19, and Mewhinney does not show or suggest a method of estimating the time remaining in a call that involves the use of automated speech recognition. Because this limitation is not shown in Mewhinney and because Dezonno does not address this shortcoming of Mewhinney, claim 19 is submitted to be allowable over the art of record.

If the rejection of claim 19 is not withdrawn, it is respectfully requested that the examiner explain where Mewhinney shows automated speech recognition or provide a reasoned explanation as to why one skilled in the art would have modified Mewhinney to include such a feature. This issue was raised in the previous Reply and was not addressed by the examiner in the current reply. It is respectfully requested that the examiner comply with MPEP 707.07(f) and address this issue so the record will be complete for a possible appeal.

Claims 20-26 depend from claim 19 and are submitted to be allowable for at least the same reasons as claim 19.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mewhinney in view of Dezonno and further in view of "the instant application." It is respectfully submitted that the detailed description of the present application is not prior art that can be used in rejecting the pending claims. It is therefore respectfully requested that this reference to the present application as being prior art be withdrawn, or that the examiner provide legal authority for using the disclosure of the present invention as

prior art. This issue too was raised in the last Reply and has not been addressed by the examiner as required by MPEP 707.07(f).

The examiner appears to be stating that automated speech recognition is known. Applicant acknowledges that the general concept of automated speech recognition is known. However, this in no manner suggests that means for estimating comprising means for performing automated speech analysis on a call as recited in claim 4 is known. The Office Action indicates that Mewhinney can be modified by substituting "one well known speech analysis means for another." It is respectfully requested that the examiner explain for the record what well known speech analysis means is disclosed in Mewhinney and provide a reason that one skilled in the art would substitute automated speech recognition for this well known means so that the basis for this rejection can be understood. This issue was raised in the last Reply and the examiner has not addressed this issue as required by MPEP 707.07(f). The art of record does not show or suggest automated speech recognition in a method for estimating time remaining in a call, and a reason for modifying Mewhinney to produce the invention of claim 4 has not been provided. Claim 4 is submitted to be allowable for at least this reason.

The present Office Action indicates that the various types of speech recognition recited in claim 4 are "different variations for determining call length." It is respectfully submitted that nothing in the record except the present application discusses automatic speech recognition for determining call length. It is respectfully requested that, if this rejection is not withdrawn, the examiner provide a basis for finding that various types of automatic voice recognition are "different variations for determining call length" so that the basis of this rejection can be understood.

Claim 14 is submitted to be allowable for at least the reasons provided above in connection with claim 4.

Claim 23 recites estimating a time remaining in a call includes recognizing a level of disfluency of the customer. Nothing in the record suggests that recognizing a level of disfluency should be used to estimate the time remaining in a call. The fact that it may be possible to detect disfluency with known programs does not make it obvious to use detected disfluency for estimating the time remaining in a call. Claim 23 further distinguishes over the art of record for this reason.

Claim 24 recites estimating a time remaining in a call that includes determining a speaking rate of the customer. Nothing in the record suggests that determining a speaking rate of a customer should be used in estimating the time remaining in a call. The fact that it may be possible to detect a speaking rate of a customer with known programs does not make it obvious to use this speaking rate for estimating the time remaining in a call. Claim 24 further distinguishes over the art of record for this reason.

Claim 25 recites estimating a time remaining in a call that includes categorizing the verbosity of the customer. Nothing in the record suggests that categorizing the verbosity of a customer should be used in estimating the time remaining in a call. Claim 25 further distinguishes over the art of record for this reason.

Claim 26 recites estimating a time remaining in a call that includes categorizing the accent of the customer. Nothing in the record suggests that categorizing the accent of a customer should be used in estimating the time remaining in a call. Claim 26 further distinguishes over the art of record for this reason.

CONCLUSION

Each issue raised in the Office Action dated November 5, 2008, has been addressed, and it is believed that claims 1, 4-6, 8-11, 14 and 16-26 are in condition for allowance. Wherefore, reconsideration and allowance of these claims is earnestly solicited. If the examiner believes that any additional changes would place the application in better condition for allowance, the examiner is invited to contact Scott Wakeman (Reg. No. 37,750) at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 50-3828 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: February 4, 2009